

§ 53.4965-6 for the discussion of “knowing or having reason to know.” See § 53.4965-8 for the definition of net income and proceeds and the standard for allocating net income and proceeds that are attributable to a prohibited tax shelter transaction to various periods.

(b) *Manager-level excise tax.* Section 4965(a)(2) imposes a manager-level excise tax on “entity managers,” as defined in section 4965(d), of tax-exempt entities who approve the entity as a party (or otherwise cause the entity to be a party) to a prohibited tax shelter transaction and know or have reason to know, at the time the tax-exempt entity enters into the transaction, that the transaction is a prohibited tax shelter transaction. See § 53.4965-5 for the definition of entity manager and the meaning of “approving or otherwise causing,” and § 53.4965-6 for the discussion of “knowing or having reason to know.” See § 53.4965-7(b) for the discussion of the manager-level excise tax under section 4965(a)(2).

(c) *Effective/applicability dates.* See § 53.4965-9 for the discussion of the relevant effective and applicability dates.

[T.D. 9492, 75 FR 38702, July 6, 2010]

#### § 53.4965-2 Covered tax-exempt entities.

(a) *In general.* Under section 4965(c), the term “tax-exempt entity” refers to entities that are described in sections 501(c), 501(d), or 170(c) (other than the United States), Indian tribal governments (within the meaning of section 7701(a)(40)), and tax-qualified pension plans, individual retirement arrangements and similar tax-favored savings arrangements that are described in sections 4979(e)(1), (2) or (3), 529, 457(b), or 4973(a). The tax-exempt entities referred to in section 4965(c) are divided into two broad categories, non-plan entities and plan entities.

(b) *Non-plan entities.* Non-plan entities are—

(1) Entities described in section 501(c);

(2) Religious or apostolic associations or corporations described in section 501(d);

(3) Entities described in section 170(c), including states, possessions of the United States, the District of Co-

lumbia, political subdivisions of states and political subdivisions of possessions of the United States (but not including the United States); and

(4) Indian tribal governments within the meaning of section 7701(a)(40).

(c) *Plan entities.* Plan entities are—

(1) Entities described in section 4979(e)(1) (qualified plans under section 401(a), including qualified cash or deferred arrangements under section 401(k) (including a section 401(k) plan that allows designated Roth contributions));

(2) Entities described in section 4979(e)(2) (annuity plans described in section 403(a));

(3) Entities described in section 4979(e)(3) (annuity contracts described in section 403(b), including a section 403(b) arrangement that allows Roth contributions);

(4) Qualified tuition programs described in section 529;

(5) Eligible deferred compensation plans under section 457(b) that are maintained by a governmental employer as defined in section 457(e)(1)(A);

(6) Arrangements described in section 4973(a) which include—

(i) Individual retirement plans defined in section 408(a) and (b), including—

(A) Simplified employee pensions (SEPs) under section 408(k);

(B) Simple individual retirement accounts (SIMPLEs) under section 408(p);

(C) Deemed individual retirement accounts or annuities (IRAs) qualified under a qualified plan (deemed IRAs) under section 408(q); and

(D) Roth IRAs under section 408A.

(ii) Arrangements described in section 220(d) (Archer Medical Savings Accounts (MSAs));

(iii) Arrangements described in section 403(b)(7) (custodial accounts treated as annuity contracts);

(iv) Arrangements described in section 530 (Coverdell education savings accounts); and

(v) Arrangements described in section 223(d) (health savings accounts (HSAs)).

(d) *Effective/applicability dates.* See § 53.4965-9 for the discussion of the relevant effective and applicability dates.

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